



Filing Receipt

Received - 2021-09-16 02:00:11 PM
Control Number - 51840
ItemNumber - 84

PROJECT NO. 51840

RULEMAKING TO ESTABLISH	§	PUBLIC UTILITY COMMISSION
ELECTRIC WEATHERIZATION	§	
STANDARDS	§	OF TEXAS

**COMMENTS OF THE
SOLAR ENERGY INDUSTRIES ASSOCIATION**

COMES NOW the Solar Energy Industries Association (SEIA) and files these comments in response to the proposed addition of 16 Texas Administrative Code (TAC) § 25.55 as published by the Public Utility Commission of Texas (Commission or PUCT) in the Texas Register on September 10, 2021.¹

Executive Summary

1. The Commission should clarify that the proposed rules are to be interpreted in a manner that does not require a resource or generation entity to implement weather emergency preparation measures that are not consistent with good utility practice or exceed the design or operating limitations prescribed by the Original Equipment Manufacturer.
2. The Commission should clarify its approach to enforcement of the proposed rule due to the limited time to comply with its requirements and potential ambiguities in the implementation of its requirements.
3. The Commission should clarify the definition of “Weather emergency preparation measures” in proposed § 25.55(b)(7) to remove a potential ambiguity.

Introduction

SEIA is the national trade association of the solar energy industry. Through advocacy and education, SEIA and its members are building a strong solar industry to power America. As the voice of the industry, SEIA works to make solar a mainstream and significant energy source by expanding markets, removing market barriers, strengthening the industry, and educating the public on the benefits of solar energy. SEIA represents solar companies across a variety of solar energy technologies, including photovoltaic (“PV”), solar water heating, and concentrating solar power

¹ 46 Tex. Reg. 5694 (Sep. 10, 2021).

(“CSP”). Additionally, SEIA represents diverse solar companies providing utility-scale generation community solar, and customer-sited solar and storage solutions.

Comments

SEIA appreciates the measured approach the Commission has proposed for the development of weather emergency preparedness reliability standards. The initial requirements proposed in this rule would need to be satisfied by December 1, 2021, unless a generation entity receives a good cause exception.

In explaining the proposed requirements applicable to generation resources, the Commission states:

Specifically, the proposal requires generators to implement the winter weather readiness actions identified in the 2012 Quanta Technology Report on Extreme Weather Preparedness Best Practices and to fix any known, acute issues that arose during the 2020 – 2021 winter weather season.

SEIA’s understanding is that the 2012 Report that is being referenced in this statement is the report that was filed in Project No. 39646, *PUC Report on Extreme Weather Preparedness*, on September 28, 2012. The publicly-filed report does not include any references or recommendations related to solar generation or energy storage resources. In the event there are recommendations regarding solar generation or energy storage resources that were included in a non-public version of the report that the Commission expects solar generation or energy storage resources to meet, appropriate notice and reasonable time to implement those recommendations are critical. SEIA respectfully requests clarification as to any additional winter weather readiness actions that its members should be aware of.

SEIA is concerned that the broad brush description in the preamble to the rule that generators must “fix any known, acute issues that arose during the 2020 – 2021 winter weather season” could be interpreted to impose requirements that are not possible to implement with

current technologies or at a reasonable cost. For example, during Winter Storm Uri, the accumulation of snow and ice on solar panels adversely impacted their ability to generate electricity until solar radiance and the slope of the panels allowed the frozen precipitation to slide off the panels. While it has been noted that some solar installations may be capable of tilting to remove ice or snowfall, not all solar installations are able to tilt in this manner, and even tilting is not able to eliminate the accumulation of ice in all conditions. Requiring all solar installations to be rebuilt to include increased tilting functionality to reduce the potential impact of snow and ice would be unreasonable and decrease, rather than increase, reliability of the ERCOT grid. A requirement that all solar generation resources deploy personnel during severe adverse weather conditions to manage snow or ice removal on solar panels, especially in remote locations of the state, also may increase the potential for loss of life when the natural course of events can be expected to resolve this issue relatively quickly. The Commission should clarify that the proposed rules are to be interpreted in a manner that does not require a resource or generation entity to implement weather emergency preparation measures that are not consistent with good utility practice or exceed the design or operating limitations prescribed by the Original Equipment Manufacturer.

Similarly, and recognizing the short period between the Commission's expected adoption of this rule and the December 1, 2021, deadline for initial compliance with its requirements, SEIA respectfully recommends the Commission provide guidance regarding how it will approach potential enforcement proceedings related to this rule. By December 1, a generation entity is required to file its winter weather readiness report describing all activities taken to complete the activities requires by subsection (c)(1). At the same time, the generation entity will have to file for a good cause exception if there are any issues that the entity was not able to comply with

pursuant to the requirements of subsection (c)(1). It should be expected that generation entities and resources will have to make judgment calls regarding the application of the requirements of subsection (c)(1) in some circumstances. At the same time, they will have no assurance that they have met the requirements of subsection (c)(1) as determined by the Commission and ERCOT until some uncertain future date. With a maximum penalty of up to \$1,000,000 per day per violation, a disagreement as to the implementation of the rule that remains unresolved for months could subject the resource and the generation entity to substantial potential liability. It would be helpful if the Commission could provide some clarity regarding how it will address these issues to ensure timely compliance in the event there is a disagreement regarding the requirements of subsection (c)(1).

§ 25.55(b) Definitions.

(7) Weather emergency preparation measures. Based on the structure of the proposed rule, it appears that this term is intended to include within its scope the measures described by §25.55(c)(1) and (f)(1). The separate definition of weather emergency preparation measures, however, raises the question whether additional, stand-alone measures are being required by the definition since it does not cross-reference the requirements in §25.55(c)(1) and (f)(1). Rather than create this ambiguity, SEIA respectfully recommends that this definition be revised to provide as follows: “(7) Weather emergency preparation measures – Measures that a generation entity or transmission service provider takes to support the function of a facility in extreme weather conditions pursuant to subsection (c)(1) or (f)(1), as applicable.”

§ 25.55(c) Phase one weather emergency preparedness reliability standard for a generation resource.

(1)(C). The use of the phrase “All actions necessary” at the outset of this subsection could be interpreted to be overly broad and require actions that are hazardous to life and property. For the same reasons as discussed above, SEIA respectfully recommends that the requirements of this subpart should be interpreted in a manner that does not require a resource or generation entity to implement weather emergency preparation measures that are not consistent with good utility practice or exceed the design or operating limitations prescribed by the Original Equipment Manufacturer.

CONCLUSION

SEIA appreciates the opportunity to provide these comments and respectfully recommends that the Commission adopt the proposed changes discussed above. SEIA looks forward to working with the Commission and interested parties on these issues.

Respectfully submitted,



Michael J. Jewell
Jewell & Associates, PLLC
State Bar No. 10665175
8404 Lakewood Ridge Cove
Austin, TX 78738
(512) 423-4065
(512) 236-5170 (FAX)

ATTORNEY FOR SOLAR ENERGY
INDUSTRIES ASSOCIATION